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10/815,534	03/31/2004	Sarah H. Kiefhaber	4366-140	3473
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SHERIDAN ROSS P.C. 1560 BROADWAY, SUITE 1200 DENVER, CO 80202			EXAMINER NGUYEN, KHAI N	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/815,534

Applicant(s)

KIEFHABER ET AL.

Examiner

Khai N. Nguyen

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13-25 and 27-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-25 and 27-40 is/are rejected.
- 7) ☒ Claim(s) 5, 7, 16, 17, 20, 22 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>October 11, 2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicants' amendment filed on November 07, 2007 has been entered. Claims 1, 7-9, 11, 13-14, 16, 21, 23-25, 27-28, 34, and 37-38 have been amended. Claims 12 and 26 have been canceled. Claims 39-40 have been added. Claims 1-11, 13-25, 27-40 are still pending in this application, with claims 1, 11, 13, 25, and 27 being independent.
2. The declaration filed on November 07, 2007 under 37 CFR 1.131 is sufficient to overcome the U.S. Publication 2005/0021529 A1 (Hodson et al.) and U.S. Publication 2005/0043986 A1 (McConnell et al.) references.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on October 11, 2007 was filed after the filing date of the instant application on March 23, 2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Objections***

4. Claims 17, 20 and 22 are objected to because of the following informalities: each of the claims incorrectly refers steps in the amended claims 13 and 16. Appropriate correction is required.

Claim 17 recites the limitation "...comprising: (c)... (d)..." when the appropriate steps are now (f) and (g) due to the claims 13 and 16 amendments. Examiner interpreted the claim to read "...comprising: (f)... (g)" for the purposes of examination.

Claim 20 recites the limitation "...comprising: (e)... (f)..." when the appropriate steps are now (f) and (g) due to the claims 13 and 16 amendments. Examiner interpreted the claim to read "...comprising: (f)... (g)" for the purposes of examination.

Claim 22 recites the limitation "...comprising: (e)... (f)... (g)..." when the appropriate steps are now (f), (g) and (h) due to the claims 13 and 16 amendments. Examiner interpreted the claim to read "...comprising: (f)... (g) and (h)" for the purposes of examination.

5. Claim 16 is objected to because of the following informalities: Claim 16 apparently attempts to claim a method "The method of claim 13, wherein a contact center includes- - -", but there is no indication in the body of claim 16 that any method step refers back to the preamble. It appears that claim 16 in fact claims a method, which is performed by a contact center. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 (claims 1, 7-9 have been amended), 13-15 (claims 13-14 have been amended), 39-40 (newly added claims) are rejected under 35 U.S.C. 101 because these claims recite nothing more than a manipulation of data or merely recite a disembodied database, in a form of an algorithm steps and they did not include any tangible computer or network references. The algorithm of claims 1-10, 13-15, 39-40 appear to be an abstract idea, given that it does not produce any kind of a useful, concrete, and tangible result. The recited process must somehow apply, involve, use, or advance the technological arts.

The recited methods of claims 1-10, 13-15, 39-40 do not apply, involve, or use the technological arts since all of the recited steps can be performed in the mind of a user/person or by the use of a pencil and paper. The claimed invention, as a whole, is not within the technological arts as explained above claims 1-10, 13-15, 39-40 are deemed to be directed to non-statutory subject matter.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-11, 13-25, 27-40 are rejected under 35 U.S.C. 102(e) as being anticipated by McKenna et al. (U.S. Patent Number 7,212,625 hereinafter "McKenna").

Regarding claims 1, 11, 16, and 30, McKenna teaches a method, the processor executable instructions (Fig. 1, 104, col. 2 lines 43-46), and the contact center, comprising:

- tracking over a selected time period, for a set of the plurality of agents servicing a plurality of discrete real-time (Fig. 1, 110d-110f, col. 2 lines 58-63, col. 3 lines 48-51) and non-real-time contacts (Fig. 1, 110a-110c, col. 2 lines 58-63, col. 3 lines 48-51), a number of discrete real-time and non-real-time contacts serviced by the set of agents that are and/or are not related to one or more other discrete real-time and non-real-time contacts serviced by the plurality of agents (Fig. 1, 108, col. 3 lines 22-23); and

- maintaining, for the set of agents, an indicator (Fig. 1, 106) indicating at least one of (i) a number of discrete real-time (Fig. 1, 110d-110f, col. 2 lines 58-63, col. 3 lines 48-51) and non-real-time contacts (Fig. 1, 110a-110c, col. 2 lines 58-63, col. 3 lines 48-51), serviced by the set of agents during the selected time period, that are not related to one or more other discrete real-time and non-real-time contacts serviced by one or more of the plurality of agents and (ii) a number of discrete real-time and non-real-time contacts, serviced by the set of agents during the selected time period, that

are related to one or more other discrete real-time and non-real-time contacts serviced by the plurality of agents (Fig. 1, 106, Fig. 2, 202-206, col. 4 lines 44-52).

Regarding claims 2, 17, and 31, McKenna teaches the contact center and method, further comprising:

- when a first contact of a first customer is serviced by the set of agents, receiving from the servicing agent a subject matter identifier indicating a purpose of the serviced first contact (Fig. 2, 204, 206, col. 4 lines 27-31, and lines 50-52); and
- when a later second contact is received from the first customer, comparing a second subject matter identifier associated with the second contact with the first subject matter identifier to determine whether the first and second contacts are related (Fig. 1, 114, i.e., "relationship server", col. 3 lines 62-64).

Regarding claims 3, 18, and 32, McKenna teaches the contact center and method, wherein, when the first and second identifiers are similar, the first and/or second and third contacts are deemed to be related (Fig. 1, 114, i.e., "relationship server", col. 3 lines 62-64).

Regarding claims 4, 19, and 33, McKenna teaches the contact center and method, wherein, when two contacts are received from the same customer during a predetermined period of time, the two contacts are deemed to be related (Fig. 2, 206, col. 4 lines 50-52, and col. 6 lines 20-23).

Regarding claims 5, 20, and 34, McKenna teaches the contact center and method, further comprising:

- monitoring a set of communications between a servicing agent in the set of agents and a customer during servicing of a contact (Fig. 1, 108, col. 6 lines 18-22); and
- based on the set of communications, determining that the contact is related to another contact/previous completed contact from the same customer (Fig. 1, 108, col. 6 lines 22-26, i.e., previous completed contact is a telephone call, present contact is web chat).

Regarding claims 6, 21, and 35, McKenna teaches the contact center and method, wherein the monitoring step comprises:

analyzing the set of communications for at least one selected word and wherein in the determining step, the presence of the at least one selected word means that the contact is related to another contact (Fig. 1, 106, col. 4 lines 44-52, i.e., speech recognition).

Regarding claims 7, 22, and 36, McKenna teaches the contact center and method, wherein each agent in the set has a corresponding indicator indicating a number of contacts, serviced by the set of agents during a selected time period, that are (i) not related to another contact serviced by one or more of the plurality of agents or (ii)



related to another contact serviced by one or more of the plurality of agents (Fig. 1, 106, Fig. 2, 202-206, col. 4 lines 44-52) and further comprising:

- receiving a contact to be serviced by one of the plurality of agents (Fig. 1, 104, 108, col. 3 lines 4-5);
- retrieving agent profiles for the set of agents/selected subset of the plurality of agents (Fig. 1, 104, 108, col. 3 lines 5-10); and
- assigning one of the set of agents to service the contact based, at least in part, on a comparison of the indicators corresponding to the agents in the set/subset (Fig. 1, 104, 108 col. 3 lines 11-20).

Regarding claims 8, 24 and 37, McKenna teaches the contact center and method, wherein the indicator indicates a number of contacts, serviced by the set of agents/ corresponding agent during the selected time period, that are related/not related to another contact serviced by one or more of the plurality of agents and wherein a single contact is defined as each interaction between a selected agent and a selected customer such that an agent-to-agent transfer of a communication from the selected customer is considered to represent multiple contacts (Fig. 1, 108, col. 6 lines 18-26).

Regarding claims 9, 23, and 38, McKenna teaches the contact center and method, wherein the indicator indicates a number of contacts, serviced by the corresponding agent during the selected time period, that are relate/not related to another contact serviced by the agent and wherein a single contact is defined as all

interactions between all members of the set of agents and a selected customer such that an agent- to-agent transfer of a communication from the selected customer is considered to represent a single contact (Fig. 1, 108, col. 6 lines 6-10, i.e., release the queue position of the non-selected service provider "agent").

Regarding claim 10, McKenna teaches the method, wherein the set of agents comprises one or more agents in the plurality of agents, wherein the related contact is a prior contact, and wherein the membership of the set of agents is defined by skill (Fig. 1, 108, col. 3 lines 15-21).

Regarding claims 13, 25 and 27, McKenna teaches the method, the processor executable instructions (Fig. 1, 104, col. 2 lines 43-46) and a contact center for servicing contacts, comprising:

- An input (Fig. 1, 104) operable to receive a contact (Fig. 1, 102a-102b) from a first customer (Fig. 1, col. 2 lines 32-39); and
- a selector operable (Fig. 1, 104, 106, 108) (i) to determine whether the received real-time contact is related (Fig. 1, 114 Relationship Server) to another real-time or non-real-time (Fig. 1, 110a-110f) contact with the first customer and (ii) when the received real-time contact is related (Fig. 1, 114 Relationship Server) to at least one real-time and non-real-time (Fig. 1, 110a-110f) contact with the first customer, to service the received real-time contact differently than when the received real-time contact is

unrelated to at least one real-time and non-real-time contact with the first customer (Fig. 1, col. 2 lines 58-67, col. 3 lines 1-3, lines 48-51, lines 62-67, and col. 4 lines 1-18).

Regarding claims 14 and 28, McKenna teaches the method and a contact center, wherein the selector (Fig. 1, 104, 106, 108) is further operable (iii) to tag the received contact, while in queue awaiting servicing, with a number of related real-time and non-real-time contacts with the first customer (Fig. 2, 202-206, col. 4 lines 27-39).

Regarding claims 15 and 29, McKenna teaches the method and a contact center, wherein the selector (Fig. 1, 104, 106, 108), when the received contact is related to a previous contact with the first customer, at least one of (i) records the received contact interaction to form a transcript of the interaction, (ii) forwards the received contact to a first agent having a first skill, and (iii) activates quality monitoring and, when the received contact is unrelated to a previous contact with the first customer, does not at least one of (i) record the received contact interaction to form a transcript of the interaction, (ii) forward the received contact to a first agent having a first skill, and (iii) activate quality monitoring (Fig. 1, col. 3 lines 4-47, quality monitoring "queue attribute", i.e., wait time, call duration, number of calls in queue, etc.).

Regarding claims 39 and 40, McKenna teaches the method, further comprising:

- identifying, for at least one of an agent and selected grouping of agents a number of one-and-done contacts serviced by the at least one of an agent and selected

grouping of agents, wherein each of the one-and-done contacts is not related to one or more other contacts from a common customer (Fig. 2, 216, col. 6 lines 11-15, one-and-done, i.e., rise to the top of the queue and routed to the selected service provide "agent").

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-11, 13-25, and 27-38 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai N. Nguyen whose telephone number is (571) 270-3141. The examiner can normally be reached on Monday - Thursday 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
KNN  
01/14/2008



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